

REMARKS

Claims 1-20 are in this application and are presented for consideration. Claims 1, 6 - 12 and 17 - 20 have been amended. Claims 2 and 13 have been cancelled.

Applicant thanks the Examiner for withdrawing the Restriction Requirement.

Claims 1 through 20 have been rejected as being anticipated by Gilmore.

Claim 1 sets forth the step of reading data into an external storage medium. In the embodiments of the present Figures, the external storage medium is represented by reference 2. As one can see from the drawings, element 2 is external to the respirator which is represented in the drawings by reference 1.

Applicant has reviewed the reference of Gilmore, and finds no teaching nor suggestion of an external storage medium. The rejection appears to equate the storage medium of claim 1 with the display controller 12 of Gilmore. The rejection also appears to equate the medical engineering device of claim 1 with the ventilator control system 10 of Gilmore. Applicant has reviewed Gilmore, especially Figure 1 of Gilmore, and it appears that element 12 is part of element 10. Since element 12 of Gilmore appears to part of element 10, element 12 is not external to element 10. Therefore, elements 12 and 10 of Gilmore do not have the same relationship as the storage medium and the respirator of claim 1. Since this relationship of claim 1 is not found in Gilmore, Gilmore fails to anticipate all of the features of claim 1. Claim 1 therefore cannot be anticipated by Gilmore.

Applicant has further reviewed Gilmore and finds no suggestion or motivation in Gilmore which would lead a person of ordinary skill in the art to have element 12 be external to element 10. Gilmore appears to lead the person of ordinary skill in the art to incorporate

element 12 into element 10. Therefore, a person of ordinary skill would not be lead by Gilmore to the relationship between the storage medium and the respirator of claim 1. Claim 1 therefore is not obvious in view of Gilmore.

Claim 11 has been amended to set forth the step of selectively connecting and disconnecting the separate storage medium to, and from, the medical engineering device. Applicant has reviewed Gilmore, and finds no teaching nor suggestion of selectively connecting and disconnecting a storage medium to, and from, a medical engineering device. As described above, the storage medium has been equated with element 12 and the medical engineering device with element 10 of Gilmore. Applicant finds no teaching nor suggestion in Gilmore of element 12 being selectively connected to, and being disconnecting from, element 10. Since Gilmore does not describe this selective connecting and disconnecting, Gilmore cannot anticipate all of the features of claim 11. Claim 11 therefore cannot be anticipated by Gilmore.

Applicant also finds no suggestion or motivation which would lead a person of ordinary skill in the art to modify Gilmore to have the selective connecting and disconnecting step of claim 11. Gilmore appears to lead a person of ordinary skill in the art to have element 12 included as part of element 10, without any selective connection or disconnection. Therefore claim 11 cannot be obvious in view of Gilmore.

Claim 12 sets forth a respirator with a separate storage medium. The rejection of claim 12 equates the medical engineering device with element 10 of Gilmore and the storage medium with element 12 of Gilmore. Applicant has reviewed Gilmore, and does not find that element 12 is a separate element from element 10. Instead it appears that element 12 is part of element

10. Therefore, elements 10 and 12 of Gilmore do not have the same relationship as the respirator and the separate storage medium of claim 12. Since this relationship of claim 12 is not present in Gilmore, Gilmore cannot anticipate all of the features of claim 12. Claim 12 therefore defines over Gilmore.

Claim 12 has also been amended to set forth a selective connection between the storage medium and the medical engineering device. Claim 12 has further been amended to set forth that the storage medium is repetitively connectable to, and disconnectable from, the respirator by the selective connection. The rejection equates the connection of claim 12 with element 15 of Gilmore. Applicant has reviewed element 15 of Gilmore, and finds no teaching nor suggestion that such a connection is a selective connection, and that it repetitively connects, and disconnects element 12 from element 10. Therefore, element 15 of Gilmore does not have all of the features of the selective connection of amended claim 12. Claim 12 therefore further defines over Gilmore.

Claims 1, 11 and 12 set forth that the data is encoded in the storage medium as a code that must be subsequently decoded by the respirator. Applicant finds no teaching nor suggestion in Gilmore of a storage medium that includes a code that must be decoded. Claims 1, 11 and 12 therefore further define over Gilmore.

Claims 13 and 14 specify that the data read into the storage medium specifies a time period during which a mode of operation is available. Applicant finds no teaching nor suggestion in Gilmore of a storage medium which specifies a time period during which a mode of operation is available. Claims 13 and 14 therefore further define over Gilmore.

Claims 4 and 15 set forth that the time period previously claimed is present as a time

log from which time units can be debited. Applicant finds no teaching nor suggestion in Gilmore of a time log from which time units can be debited. Therefore claims 4 and 15 further define over Gilmore. Claims 5 and 16 set forth that the time log is filled up by an external writing unit. Since Gilmore does not teach nor suggest a time log, Gilmore further cannot teach nor suggest an external writing unit which fills up a time log. Claims 5 and 16 therefore further define over Gilmore.

Claims 6-9 and 17-20 set forth further features of the storage medium. Since Gilmore does not describe all of the features of the storage medium as previously claimed, Gilmore clearly cannot describe a storage medium having those features plus the additional features of these claims. Therefore these claims further define over Gilmore.

If the Examiner has any comments or suggestions which would further favorable prosecution of this application, the Examiner is invited to contact Applicant's representative by telephone.

At this time, Applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks respectfully solicits allowance of this application.

Respectfully submitted
for Applicant,

By: 

Theobald Dengler
Registration No. 34,575
McGLEW AND TUTTLE, P.C.

TD:jms

Enclosed: Abstract of the Disclosure
Information Disclosure Statement
Credit Card Payment Form PTO-2038

70363.11

DATED: December 17, 2004
SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-0827
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL IN AN ENVELOPE ADDRESSED TO:

COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, EXPRESS MAIL NO. EV439439038US.

McGLEW AND TUTTLE, P.C.

BY: Louisa Fonte DATE: December 17, 2004